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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,272	12/28/2001	Li Yu-Chu	LIYU3004/EM	4100
23364	7590	03/08/2004	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/029,272

Applicant(s)

YU-CHU ET AL.

Examiner

Josiah Cocks

Art Unit

3749

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1, 2, and 4-7.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Advisory Action

1. Continuation of item 7.

The amendment filed 2/20/04 has been entered because it corrects grammatical errors in the specification and materially simplifies the issues for appeal by essentially incorporating the limitations of claim 3 into claim 1. However, the application is not in a condition for allowance. The rejection to the claims laid out in the Final Rejection mailed 11/20/03 is maintained and is recited below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by *Hebert* (US # 4,213,448).

Hebert discloses in Figures 1-6 a counter-thermosyphon loop heat pipe solar collector substantially as described in applicant's claims 1, 2, and 4-7 including a loop heat pipe (54) heating apparatus (14) mounted on a heating side, a cooling apparatus mounted on a cooling side, a partition (see unnumbered partition and item 59 at lower portion of Fig. 3), and a vertical narrow channel/piping element (34) with walls that functions as a capillary to draw fluid upwards (see col. 4, lines 56-68)). *Hebert* further discloses that cooling water is used in the

Art Unit: 3749

cooling apparatus (see col. 4, lines 51-54), a damper/valve (44) at a top end of the vertical piping element, and the heat pipe (54) has a rectangular shape (see Fig. 3).

Response to Arguments

4. Applicant's arguments filed 2/20/04 have been fully considered but they are not persuasive. Applicant argues that the valve (44) of *Hebert* cannot be considered a damper as claimed by applicant. This argument is not persuasive. A person of ordinary skill in the art would understand that the valve (44) of *Hebert* may be regarded as a damper. Meriam Webster's Collegiate Dictionary Tenth Edition (1996) defines damper as, "a valve or plate (as in the flue or a furnace) for regulating the draft." (See attached). The term "damper" as recited in applicant's claims does not define any structure distinct from the valve (44) of *Hebert*. In applicant's submission of 2/20/04 applicant invited the examiner to amend to the claims to further distinguish applicant's damper by including language such as "wherein the damper is a deflector." The examiner declines this invitation. While this language may distinguish over the *Hebert* reference, it would present a claim with a scope that has not been considered by the examiner and would warrant further consideration and/or search. Such an amendment to the claims would be considered upon the filing of a Request for Continued Examination (RCE).

USPTO Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is

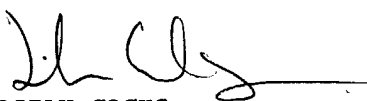
Art Unit: 3749

(703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
March 4, 2004


JOSIAH COCKS
PATENT EXAMINER
ART UNIT 3749